

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PINNACLE FITNESS AND RECREATION
MANAGEMENT, LLC, a Delaware limited
liability company,

Plaintiff,

v.

THE JERRY AND VICKIE MOYES FAMILY
TRUST, an Arizona trust,

Defendant,

AND RELATED CLAIMS.

Civil No. 08-CV-01368-AJB (BGS)

**ORDER GRANTING IN PART
DEFENDANT'S EX PARTE MOTION FOR
EXTENSION OF TIME TO COMPLETE
THE DEPOSITION OF THIRD-PARTY
WITNESS ALAN WASKIN**

On April 8, 2011, Defendant The Jerry and Vickie Moyes Family Trust filed an ex parte motion¹ for open extension to take the deposition of third-party witness Alan Waskin. (Doc. No. 118.) Alan Waskin's deposition was to take place on March 29, 2011, but was postponed due to Plaintiff's counsel's unavailability on that date due to a personal medical issue. (*Id.*) Plaintiff Pinnacle Fitness and Recreation Management, LLC filed a response in opposition to Defendant's ex parte motion on April 13, 2011. (Doc. No. 124.) Plaintiff in its opposition states that the parties have come to an agreement to take Alan Waskin's deposition on May 4, 2011 in the San Diego area.

¹Defendant labeled its motion "The Trust's Motion For Open Extension to Take the Deposition of Alan Waskin." (Doc. No. 118.) As Defendant did not request a hearing date or time prior to filing its motion and seeks an extension of time less than twenty-eight (28) days from the filing date, the Court interprets Defendant's motion to be an ex parte motion.

1 (*Id.* at 2.) The Court, for good cause shown, grants in part Defendant's ex parte motion. The
2 deposition of third-party witness Alan Waskin may take place on or before **May 4, 2011**.

3 All other dates and deadlines remain as set and will not be modified absent good cause.
4 Additionally, the Court denies without prejudice Defendant's request to supplement any summary
5 judgment briefing with information learned from Alan Waskin's deposition. The Court notes that
6 this request should be made to the District Court judge assigned to the case, as motions for summary
7 judgment are set before Judge Battaglia

8 **IT IS SO ORDERED.**

9 DATED: April 18, 2011

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11 **BERNARD G. SKOMAL**
12 United States Magistrate Judge
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